by Ellen Goodman

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# Hawaii Marriage Case Reconstructs Gay Rights Debate

BOSTON — Memo to the travel agent: Don't start booking those wedding packages to Honolulu just yet. The weather on the islands is delightful but the timing is a bit premature.

Last week, a Hawaii Circuit Court judge ruled that the state had to issue marriage licenses to gay couples. But he put off the first wedding date for at least a year until the Hawaii Supreme Court hears an appeal.

Honolulu may then become the Reno of gay marriages. But no one knows whether a gay couple wed on Maui will still be married when they get to the mainland.

In these United States, every one of the 50 legislatures makes its own marriage rules. There are 29 states that let first cousins marry and 21 that don't. In Mississippi females can marry at 15; in most other states they must be 18.

Nevertheless, federal law requires that each state recognize marriages that are legal in another under the "full faith and credit" clause of the Constitution. It's how we prevent the bizarre situation that once faced interracial couples whose marital status could change at any border.

*Putting marriage, a profoundly conservative institution, at the center of gay rights upends the stereotypes.*

What will happen with gay marriages? A day after the Hawaii ruling, Gov. William Weld said that Massachusetts would recognize ceremonies performed in Hawaii. But 16 other states have passed laws banning same-sex marriage and 20 have rejected such laws. And then, there is the Defense of Marriage Act.

This law, a.k.a. "The Defense of Political Flank Law," passed by Congress and signed by a campaigning president, gives states the dubious right to ignore same-sex marriages from other states. When the first gay couple has their Hawaiian marriage summarily annulled over the Pacific, a test case will begin wending its way to the U.S. Supreme Court.

It will be up to the justices to say whether this man and this man can be joined in civil matrimony in Hawaii but not in Wyoming. Whether this woman and this woman can file joint tax returns on the big island but not the mainland.

Frankly, I am still not sure how marriage became the dominant gay rights issue. No strategist could pick a hotter button to push.

There are many in the gay community as well who would rather focus on old-fashioned discrimination in housing and jobs, and on hate crimes. To repeat a phrase by one activist, "You don't build the penthouse until you've constructed the first 19 floors."

There has indeed been a backlash from the folks who believe that the best way to defend marriage is by preventing it. But at the same time, there has also been a perceptible shift in the arguments before the "movable middle," those folks who are uneasy with gay marriage but opposed to discrimination.

Putting marriage, a profoundly conservative institution, at the center of gay rights upends the stereotypes. It presents an image of stable couples in search of lifetime commitments.

The marriage proposal alters the landscape in other ways. Domestic partnership — once a far-out notion of an everything-but-marriage commitment with its benefits and responsibilities — is now the conservative alternative. With same-sex marriage at issue in one state, it seems more reactionary that same-sex sex is illegal in others.

And even without a single vow being made, the Hawaii case may have another effect on a major gay rights issue: parenting. After all, the state argued — and lost — its case against same-sex marriage on the grounds that it was necessarily worse for a child to be raised by a gay than a straight couple.

In a 46-page opinion going over the research, the judge ruled that the kids in gay households were no more troubled. Imagine the effect of that opinion in cases such as the recent Florida custody dispute where the court ruled against a lesbian mother in favor of a father who was a convicted murderer.

For the moment, any gay couple with marriage on the mind had better be prepared for a long engagement. It may be years and waves of backlash before all the legal issues are resolved. Many will never accept the bride and bride, the groom and groom.

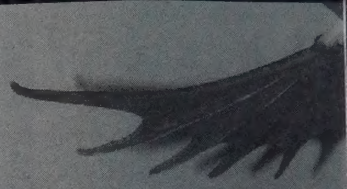
But it's beginning to look as if some new civil rights ground will be won on the way down this long aisle. That's worth the trip.

***Ellen Goodman appears regularly in* The Boston Globe.**

by Jane Mc Bee

elementary school and continued through college. In 1990, he made a risky but winning move; with the blessings of his pregnant wife, whom he had met over a hot game of Civilization, he quit his job as a stock broker to open their first store, on Tejon Street. After just six years, they've relocated across the street into twice the space.

"There are no computer games in our store, because games should be about social interaction between people, not people and machines," he says. "You can learn to beat the system with a computer, but playing against another person, it's always completely new."



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